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08 MAY 2007

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In re Application of COHEN et al  
U.S. Application No.: 10/591,538  
PCT Application No.: PCT/IB2005/000896  
Int. Filing Date: 04 March 2005  
Priority Date Claimed: 04 March 2004  
Attorney Docket No.: 065691-0466  
For: PREPARATION OF RECOMBINANT  
ROTAVIRUS PROTEINS IN MILK. . .

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DECISION

This is in response to the declaration filed 01 September 2006, which is being treated as a request for status under 37 CFR 1.42.

**BACKGROUND**

On 04 March 2005, applicant filed international application PCT/IB2005/000896, which claimed priority of an earlier European Patent Office application filed 04 March 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 15 September 2005. The thirty-month period for paying the basic national fee in the United States expired on 04 September 2006.

On 01 September 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and the present request for status under 37 CFR 1.42.

**DISCUSSION**

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

In the present case, the declaration states that inventor Jean Cohen is deceased. However, the declaration is not executed by the legal representative of the deceased.

### **CONCLUSION**

For the reasons above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42".

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the legal representative of the deceased inventor must be filed.



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